

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 24-80116-CR-CANNON/McCabe

UNITED STATES OF AMERICA

vs.

RYAN WESLEY ROUTH,

Defendant.

**GOVERNMENT'S NOTICE OF FILING PROPOSED ORDER FOLLOWING
HEARING ON GOVERNMENT'S MOTION TO PRECLUDE LEGALLY PROHIBITED
AND FACTUALLY BASELESS DEFENSES (ECF 119)**

As directed by the Court, the United States submits the attached proposed order based upon the Court's direction at the May 14, 2025 hearing on the Government's Motion to Preclude Legally Prohibited and Factually Baseless Defenses (ECF 119). The proposed order reflects our understanding of the Court's rulings. We note that the parties conferred, but were unable to agree on language from *United States v. Funches*, 135 F.3d 1405, 1408-09 (11th Cir. 1998) that the Court should quote as its order on the issue of nullification (Paragraph 5). For our part, we understood that the Court ultimately directed the parties to seek to agree on relevant language quoting *Funches*; to that end, we proposed quoting in part the Eleventh Circuit's language. *See id.*, 135 F.3d at 1408-09 (rejecting argument that Defendant has a "due process right to present evidence the only relevance of which is to inspire a jury to exercise its power of nullification. ... a criminal defendant is unentitled to a jury instruction which alerts the jury of its de facto power and, further, [] defense counsel may not argue jury nullification during closing argument. Because the jury enjoys no right to nullify criminal laws, and the defendant enjoys a right to neither a nullification instruction nor a nullification argument to the jury, the potential for nullification is no basis for admitting otherwise irrelevant evidence." (internal citations and quotation marks omitted)). The

defense's position is that the Court should strike the words "nor offer any evidence" from our proposed order. We note also that we have left Paragraph 6 (regarding impermissible mental capacity evidence) untouched from the version the Court considered during argument; we understood the Court's direction to be that we should submit this paragraph "as is", and that the Court would modify it as appropriate.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I electronically filed the foregoing document with the Clerk of the Court using CM/ECF on May 15, 2025.

/s/ Christopher B. Browne
Assistant United States Attorney